

DEPARTMENT OF SOCIAL SERVICES

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April 11, 1985

ALL-COUNTY LETTER NO. 85-42

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY COUNSELS

Subject: FEDERAL REVIEW FOR COMPLIANCE WITH PL 96-272, Title IV-B

REFERENCE: ACL 84-38

The federal Department of Health and Human Services (DHHS) has provided the Department of Social Services (DSS) with additional information regarding Title IV-B Child Welfare Services compliance review criteria. DHHS will be using these case review criteria to conduct periodic reviews of California's compliance with Section 427 of Title IV-B of the Social Security Act (42 USCA 627). Review of the attached federal DHHS Program Instructions (ACYF-PI-85.2) will assist county welfare departments (CWD) in preparing for the federal compliance review.

We have annotated each section of the attached federal review criteria indicating citations for the corresponding state regulatory and statutory requirements. Our purpose in sharing this information is to ensure that CWD's will have full knowledge of the areas which will be covered in the DHHS field review of sample cases.

At this time, DSS does not know when the federal compliance review will begin. Counties will be notified as soon as this information is available. It is recommended that CWD's compare the compliance review criteria described in ACL 84-38 with the review criteria outlined in the attached federal Program Instructions in order to anticipate the potential impact of the additional case review criteria. Counties should take immediate steps where necessary to ensure that adequate case documentation is available for federal compliance reviewers to make determinations regarding the criteria listed.

If you have any questions, please contact your Adult and Family Services Program Operations Consultant at (916) 322-6671 or ATSS 492-6671.

A handwritten signature in dark ink, appearing to read "Loren D. Butler", is written over the typed name.

LOREN D. BUTLER
Deputy Director
Adult and Family Services Division

EIGHTEEN ELEMENTS

CASE PLAN

A. THERE IS A WRITTEN CASE PLAN.

- (1) The case plan includes a description of the type of home or institution in which the child is to be placed.
MPP 30-376.11 and .14
- (2) The case plan discusses the appropriateness of the placement.
MPP 30-376.13 and .14
- (3) The case plan is designed to achieve placement in the least restrictive (most family-like) setting available consistent with the best interest and special needs of the child.
MPP 30-336.11
- (4) The case plan is designed to achieve placement in close proximity to the parents' home consistent with the best interest and special needs of the child.
MPP 30-376.11
- (5) The case plan discussed how the agency plans to carry out the judicial determination made with respect to the child in accordance with Section 472(a)(1).
MPP 30-376.141
- (6) The case plan includes a plan for assuring that the child receives proper care.
MPP 30-376.13, .14, and .15
MPP 30-342.1, .2, .3, and .6
- (7) The case plan includes a plan for assuring that services are provided to the child and parents to improve the conditions in the parents' home and facilitate return of the child to his own home or the permanent placement of the child.
MPP 30-376.13, .14 MPP 30-342.5
- (8) The case plan includes a plan for assuring that services are provided to the child and foster parents to address the needs of the child while in foster care.
MPP 30-342-3, .6 MPP 30-376.151(b)
MPP 30-376.12, .14
- (9) The case plan discusses the appropriateness of the services that have been provided to the child under the plan.
MPP 30-376.151(a) and (b)

PERIODIC REVIEW

B. THE STATUS OF EACH CHILD IS REVIEWED PERIODICALLY BUT NO LESS FREQUENTLY THAN ONCE EVERY SIX MONTHS BY EITHER A COURT OR AN ADMINISTRATIVE REVIEW.

(10) The periodic reviews have determined the continuing necessity for and appropriateness of the placement.

(11) The periodic reviews have determined the extent of compliance with the case plan. WIC 366(a) MPP 30-491.111 and .112 and 30-390
WIC 233(a) MPP 30-492.111 and .112 and 30-390

(12) The periodic reviews have determined the extent of progress which has been made toward alleviating or mitigating the causes necessitating the placement in foster care. WIC 366(a) MPP 30-492.114 and 30-390

(13) The periodic reviews have projected a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

(14) If the periodic review was an administrative review, it was open to the participation of the parents of the child. WIC 366(a) MPP 30-492.115 and 30-390
MPP 30-494.11

(15) If the periodic review was an administrative review, it was conducted by a panel of appropriate persons at least one of whom is not responsible for the the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. MPP 30-492.2 and 30-390

PROCEDURAL SAFEGUARDS

C. TO DETERMINE THE FUTURE STATUS OF THE CHILD THERE WAS A DISPOSITIONAL HEARING HELD IN ACCORDANCE WITH SECTION 475(5)(C) NO LATER THAN 18 MONTHS AFTER ORIGINAL PLACEMENT AND PERIODICALLY THEREAFTER.

(16) Procedural safeguards were applied with respect to parental rights pertaining to the removal of the child from the home of his parents.


WIC 366.25

(17) Procedural safeguards were applied with respect to parental rights pertaining to a change in the child's placement.

WIC 366.25

(18) Procedural safeguards were applied with respect to parental rights pertaining to any determination affecting visitation rights.

WIC 366.25

	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children, Youth and Families	
	1. Log No. ACYF-PI-85-2	2. Issuance Date: 01/29/85
	3. Originating Office: Children's Bureau	
	4. Key Word: Section 427- Triennial Review	5.
	6.	7.

2/15/85 Assigned to:
File
 Total response action considered appropriate.

PROGRAM INSTRUCTION

TO : State Agencies and Indian Tribal Organizations
Administering Title IV-B of the Social Security Act

SUBJECT : Section 427 Compliance -- Triennial Review

LEGAL AND
RELATED

BACKGROUND: Section 427 and Section 475 of the Social Security Act (the Act).

SUMMARY : In order to pass the Triennial Compliance Review (TCR), at least 90 percent of the foster care cases reviewed must meet the three critical elements and at least 15 of the 18 other statutory requirements.

BACKGROUND:

Section 427 of title IV-B provides that a State may be eligible for incentive payments, if among other things, it "has implemented and is operating to the satisfaction of the Secretary" certain systems providing protections for children in foster care. However, before ACYF conducts an initial compliance review, a State must certify that it meets all the statutory requirements.

These statutory requirements include the conduct of an inventory and the implementation and operation of a statewide information system, a system of case review for each child in foster care, a service program to facilitate reunification with families, or other permanent placements, and a preplacement preventive service program designed to help children remain with their families. Once a State has certified to these protections, funds are made available to the State.

ACYF then conducts a two-part review to verify compliance.

The first part of the compliance review determines whether a State has fully implemented its systems. This is called an administrative procedures review. In this part of the compliance review, ACYF looks at the administrative procedures a State has in place to implement the protections specified in the statute at section 427. The Department considers a State to be in compliance with this part of the review only if it has fully implemented 100 percent of the statutory provisions. This means that the inventory must have been conducted and the statewide information system, the case review system, and the services program(s) must have been implemented and be in operation. For example, reviewers verify the State's statutory or administrative procedures established to implement the case review system through administrative directives, guidelines, manuals, or working procedures with courts. State administrative procedures must make all the statutory protections mandatory and must document each and every element of the case review system. Only if the State achieves 100 percent compliance with the administrative procedures review requirements will ACYF conduct the second part of the compliance review, the case record survey.

The case record survey is a review of the operational aspect of compliance. The Secretary has exercised her discretion in determining whether States are operating their systems to her satisfaction by establishing acceptable levels of performance regarding the number of statutory protections which individual case records must contain and the number of satisfactory case records required for an acceptable State system.

Like the administrative procedures review, the case record survey also focuses on the statutory requirements found in section 427. A sample of case records is reviewed. Reviewers first determine if the three critical elements which make up the case review system are implemented for each case under review.

These critical elements, statutorily mandated in section 427(a)(2)(B) and specifically set forth in section 475(1) and (5), require that:

the case plan be a written document;

the periodic review be conducted no less frequently than once every six months; and

the dispositional hearing be conducted no later than 18 months after the child's original placement and periodically thereafter as defined by the State.

If a case record does not meet any one of these three critical elements it is considered a failed case. If a case meets the three critical elements, reviewers then determine to what extent the 18 other statutory requirements related to the three critical elements are applied to the case (see attachment I). Cases which document that the required number of elements have been met are considered acceptable.

INSTRUCTION:

This Program Instruction identifies the three types of section 427 compliance reviews and indicates the percentage of acceptable cases required in each for a State to demonstrate eligibility for section 427 funds. In the Initial Compliance Review (ICR), at least 66 percent of the State agency's foster care cases must meet the three critical elements and, in addition, meet at least 13 of the 18 other statutory requirements. Increasingly higher levels of performance are required in later year reviews. If a State meets the ICR requirements, a compliance review is conducted for the following fiscal year. In this review, known as a Subsequent Compliance Review (SCR), at least 80 percent of the State agency's foster care cases must meet the three critical elements and at least 13 of the 18 other statutory requirements.

States that meet the requirements of the SCR will be reviewed for the third year following the year for which the SCR was conducted and for every third year thereafter. In this review, known as a Triennial Compliance Review (TCR), at least 90 percent of the State agency's foster care cases must meet the three critical elements and at least 15 of the 18 other statutory requirements.

Attachment II contains the Instructions for a section 427 Triennial Review regarding the Case Record Survey Sample and the appropriate Decision Table to be used.

EFFECTIVE: Upon Receipt

INQUIRIES TO: Regional Program Directors, ACYF


Dodie Livingston
COMMISSIONER

ATTACHMENTS:

Fife
Brown

Attachment I - Eighteen Elements

Attachment II - Instructions for Sec. 427 Triennial Reviews:
Case Record Sample Survey and Triennial Review
Decision Tables III and IV